

Appl. No. 10/797,423  
Atty. Docket No. 9181  
Amdt. dated October 12, 2006  
Reply to Office Action of July 13, 2006  
Customer No. 27752

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#### REMARKS

##### Claim Status

Claims 1 – 6, 10 – 12, 14 – 16 and 19 – 20 are pending in the present application. No additional claims fee is believed to be due.

Claims 1, 14 and 20 have been amended to replace the phrase “along the periphery of said top edge” with the phrase “along the periphery of both of said top edges.” Support for this amendment can be found in the Specification at page 13, lines 28 – 29.

Claim 1 has been amended to include the features of claims 8, 9 and 13 (now canceled). Support for this amendment can be found at claims 8, 9 and 13.

Claim 10 has been amended to depend from claim 1 instead of claim 9.

Claim 14 has been amended to include the features of claims 17 and 18 (now canceled) as well as claim 13. Support for this amendment can be found at claims 13, 17 and 18.

Claim 20 has been amended to include the features of claim 13. Support for this amendment can be found at claim 13.

Claims 7 – 9, 13 and 17 – 18 are canceled without prejudice.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

##### Rejection Under 35 USC §112

Claims 1, 14 and 20 have been rejected under 35 USC §112 second paragraph as being indefinite. The Office Action states that Claims 1, 14 and 20 recite the limitation “said top edge.” (The Office Action, page 2). The Office Action states that there is insufficient antecedent basis for this limitation in the claim. *Id.*

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Claims 1, 14 and 20 have been amended to provide proper antecedent basis as required by the Office Action. Applicants believe the amendments fully address the rejections, and respectfully request that the rejections of claims 1, 14 and 20 under 35 U.S.C. §112 second paragraph be withdrawn.

#### **Double Patenting Rejection**

Claims 1 – 20 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 – 36 of copending Application No. 10/947,718 in light of Pike, et al., (U.S. Pat. No. 5,605,749). Applicants are willing to file a terminal disclaimer to obviate a provisional double patenting rejection upon allowance of patentable subject matter if still required.

#### **Rejection Under 35 U.S.C. §103 Over Otten in view of Pike**

Claims 1 – 2, 4 – 6, 11 – 12, 14, 16 and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Otten, et al., (US Patent No. 6,257,785, hereinafter “Otten”) in view of Pike, et al., (US Patent No. 5,605,749, hereinafter “Pike”)

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” *In re Royka*, 490 F.2d 981 (CCPA 1974); MPEP §2143. Applicants respectfully submit the neither Otten nor Pike, alone or in combination, teach or suggest each and every element of claim 1 of the present application.

With regard to claim 1 the Office Action states

Otten et al teach a disposable glove comprising a front panel, a back panel having a periphery wherein the front panel and back panel meet and are secured to each other along top, side and a portion of bottom edges. The front panel has an inner surface and an outer surface that is opposite to the inner surface. The back panel has an inner surface and an outer surface that is opposite to the inner surface. See col. 3, lines 23 – 51. The glove further comprises an opening for inserting the user's hand. Otten et al teach the first or inner surface of the back panel and/or the second or outer surface of the front panel can comprise a fibrous material of non-woven material. See col. 4, lines 27 – 34. The glove is comprised of selectively-activatable sheet material which may be activated to deliver substances such as gels, pastes . . . and liquids which may be released when exposed to contact with external surfaces.

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(The Office Action, page 4, last para.). The Office Action goes on to state “[w]hile Otten et al disclose a non-woven web material . . . Otten does not specifically that the material be a high loft non-woven batting.” (The Office Action, page 5, first full paragraph). The Office Action looks to Pike to provide support for the high loft nonwoven batting.

Assuming, *arguendo*, that Otten and Pike are properly combinable and that Pike discloses the high loft nonwoven batting for which the Office Action cites it, the combination of Otten and Pike still does not teach or suggest a disposable nonwoven cleansing mitt adapted to fit on a user's hand, said mitt comprising: first and second substantially complementary nonwoven sheet members in an overlying relationship, said first and second substantially complementary nonwoven sheet members independently comprising fibers selected from the group consisting of rayon, polypropylene, cellulose, polyesters, and mixtures thereof, said first nonwoven sheet member comprising a nonwoven high loft batting material, said members defining an interior volume for receiving said user's hand, each of said first and second substantially complementary nonwoven sheet members including an exterior surface, an interior surface opposing said exterior surface, a top edge, a bottom edge opposing said top edge, and first and second opposed side edges, said first and second substantially complementary nonwoven sheet members being secured to each other along the periphery of both of said top edges and both of said first and second opposed side edges, at least a portion of said bottom edges being unsecured so as to provide an opening to said interior volume for inserting said user's hand therein, said second member comprising a polyolefin film attached to said interior surface of said second member, one of said first and second sheet member comprising printed matter on said exterior surface thereof, at least one of said first and second sheet members comprising an adjustment means to permit a variation in the size of said interior volume to accommodate different hand sizes; and a personal care composition comprising no more than about 7% water, wherein at least one of said first and second sheet members releasably carries said personal care composition, and wherein said mitt is dry prior to being contacted with water.

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In light of the above remarks, Applicants respectfully submit that the combination of Otten and Pike does not teach or suggest each and every element of claim 1 as amended, and consequently the Office has failed to make a *prima facie* case of obviousness. Because the above remarks are equally applicable to claims 14 and 20, Applicants respectfully submit that the Office Action has failed to make a *prima facie* case of obviousness for these claims as well. Additionally, if an independent claim is nonobvious under 35 U.S.C. §103(a), then any claim depending from that independent claim is also nonobvious. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, Applicants respectfully request that the rejection of claims 1 – 2, 4 – 6, 11 – 12, 14, 16 and 20 under 35 U.S.C. §103(a) over Otten in view of Pike be reconsidered and withdrawn.

The Office Action does not state that claim 19 of the present application is rejected. However, the Office Action provides disclosure that would indicate to Applicants that claim 19 may stand rejected. (The Office Action, page 12, third full para.). Applicants respectfully submit that until such time as the Office Action provides a rejection of claim 19, claim 19 is allowable.

Even if claim 19 stood rejected under 35 U.S.C. 103(a) over Otten, et al., in view of Pike, et al., Applicants respectfully submit that under *In re Fine*, claim 19 is nonobvious in light of the remarks made above with regard to claim 14, from which claim 19 depends. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

**Rejection Under 35 U.S.C. §103 Over Otten in view of Pike and further in view of Shawver**

Claims 3 and 15 have been rejected under 35 U.S.C. §103(a) as being obvious over Otten, et al., (US Patent No. 6,257,785, hereinafter “Otten”) in view of Pike, et al., (US Patent No. 5,605,749, hereinafter “Pike”) and further in view of Shawver, et al., (U.S. Pat. No. 5,540,976, hereinafter Shawver).

The Office Action states that “Otten and Pike . . . do not require a laminate of three layers comprising [an] elastomeric web sandwiched between two outer layers of

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nonwoven material. (The Office Action, page 3, third full para.). The Office Action looks to Shawver to provide the missing disclosure.

Assuming, *arguendo*, that the combination of the cited documents is proper, there is still no teaching or suggestion of each and every element of claim 3 or 15 of the present application. As stated above, Otten and Pike do not teach or suggest each and every element of claim 1 or 14. Shawver does not provide the missing disclosure with regard to claim 1 or 14, and since claims 3 and 15 depend from claims 1 and 14, respectively, the combination of Otten, Pike and Shawver does not teach or suggest each and every element of claim 3 or 15. Accordingly, Applicants respectfully request that the rejection of claims 3 and 15 under 35 U.S.C. 103(a) over Otten in view of Pike and further in view of Shawver be reconsidered and withdrawn.

**Rejection Under 35 U.S.C. §103 Over Otten in view of Pike and further in view of  
Skewes**

Claims 7 – 8 and 17 – 18 have been rejected under 35 U.S.C. §103(a) as being obvious over Otten, et al., (US Patent No. 6,257,785, hereinafter “Otten”) in view of Pike, et al., (US Patent No. 5,605,749, hereinafter “Pike”) and further in view of Skewes, et al., (U.S. Pat. No. 6,206,863, hereinafter Skewes).

Claims 7 – 8 and 17 – 18 are canceled, thus rendering the rejection of claims 7 – 8 and 17 – 18 under 35 U.S.C. §103(a) moot.

**Rejection Under 35 U.S.C. §103 Over Otten in view of Pike and further in view of  
WO/03/000106**

Claims 9 – 10 have been rejected under 35 U.S.C. §103(a) as being obvious over Otten, et al., (US Patent No. 6,257,785, hereinafter “Otten”) in view of Pike, et al., (US Patent No. 5,605,749, hereinafter “Pike”) taken with Topjian as applied to claim 1 above and further in view of WO/03/000106, hereinafter ‘106).

Claim 9 is canceled, thus rendering the rejection of claim 9 under 35 U.S.C. §103(a) moot.

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When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable." (37 CFR Section 1.104(c)(2)).

The Office Action states "[t]he references to Otten et al, Pike et al and Topjian are discussed above." (The Office Action, page 9, first para.). Applicants point out that Topjian is not listed as being a reference by the Office Action to support a rejection under 35 U.S.C. §103(a). Additionally, Applicants are unable to find any previous mention of Topjian in the Office Action. Further, the Office Action does not provide a publication number or other reference number by which Applicants can obtain a copy of Topjian. It is not apparent to the Applicants whether the Office Action actually relied on any disclosure in Topjian, but it is Applicants' position that if the Office Action did rely on Topjian then the rejection of claim 10 under 35 U.S.C. 103(a) is improper and should be withdrawn.

Notwithstanding the lack of disclosure with regard to Topjian, the combination of Otten, Pike and '106 still does not teach or suggest each and every element of claim 10 of the present application. The Office Action states, "Otten et al do not require a polyolefin film attached to one of the inner side of the panels; however, WO '106 teaches a disposable mitt comprising a wet side and a drying side . . . a polyolefin film of polyethylene is attached to the inner side of the wet side." (The Office Action, page 9, first para.).

Assuming, *arguendo*, that '106 is properly combinable with Otten and Pike, and that '106 provides the disclosure for which the Office Action cites it, there is still no teaching or suggestion of each and every element of claim 10 of the present application. As stated above, Otten and Pike do not teach or suggest each and every element of claim 1. '106 does not provide the missing disclosure with regard to claim 1, and since claim 10 depends from claim 1, the combination of Otten, Pike and '106 does not teach or suggest each and every element of claim 10. Accordingly, Applicants respectfully request that the rejection of claims 10 under 35 U.S.C. 103(a) over Otten in view of Pike and further in view of '106 be reconsidered and withdrawn.

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**Rejection Under 35 U.S.C. §103 Over Otten in view of Pike and further in view of**  
**FR 2,813,777**

Claim 13 has been rejected under 35 U.S.C. §103(a) as being obvious over Otten, et al., (US Patent No. 6,257,785, hereinafter "Otten") in view of Pike, et al., (US Patent No. 5,605,749, hereinafter "Pike") and further in view of FR 2,813,777 (hereinafter '777).

Claim 13 is canceled, thus rendering the rejection of claim 13 under 35 U.S.C. §103(a) moot.

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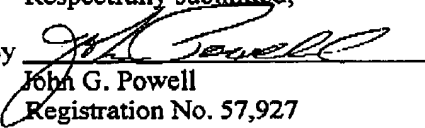
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Conclusion

This amendment represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. Applicant respectfully requests that the rejection of the claims be reconsidered in light of the claim amendments and arguments set forth herein and that claims 1 - 6, 10 - 12, 14 - 16 and 19 - 20 be allowed. Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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